



STATE OF MONTANA REQUEST FOR PROPOSAL (RFP)

RFP Number: 0810030GU	RFP Title: SANDERS BUILDING CAFETERIA 111 N Sanders Helena MT 59601
RFP Response Due Date and Time: MAY 20, 2008 2:00 P.M, Local Time	Number of Pages: 33 PAGES

ISSUING AGENCY INFORMATION

Procurement Officer: GWEN UNGERMAN	Issue Date: APRIL 17, 2008
DPHHS PURCHASING OFFICE ROOM 8 111 N SANDERS HELENA MT 59601	Phone: 406-444-0546 Fax: 406-444-7358 TTY Users, Dial 711 Website: http://vendor.mt.gov/

INSTRUCTIONS TO OFFERORS

Return Sealed Proposal to: DPHHS PURCHASING OFFICE ROOM 8 111 N SANDERS HELENA MT 59601	Mark Face of Envelope/Package: RFP Number: 0810030GU RFP Response Due Date: MAY 20, 2008 2:00 P.M, Local Time Special Instructions: A Mandatory Pre-Proposal Walk-Through will be conducted at the Department of Public Health & Human Services (DPHHS) 111 N Sanders Helena MT. APRIL 23, 2008 at 2:30 p.m.
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IMPORTANT: SEE STANDARD TERMS AND CONDITIONS

OFFERORS MUST COMPLETE THE FOLLOWING

Offeror Name/Address:	Authorized Offeror Signatory: (Please print name and sign in ink)
Offeror Phone Number:	Offeror FAX Number:
Offeror E-mail Address:	

OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE

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INSTRUCTIONS TO OFFERORS

It is the responsibility of each offeror to:

Follow the format required in the RFP when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.

Provide complete answers/descriptions. Read and answer **all** questions and requirements. Don't assume the State or evaluator/evaluation committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the State. The proposals are evaluated based solely on the information and materials provided in your response.

Use the forms provided, i.e., cover page, sample budget form, certification forms, etc.

Submit your response on time. Note all the dates and times listed in the Schedule of Events and within the document, and be sure to submit all required items on time. Late proposal responses are ***never*** accepted.

**The following items MUST be included in the response to be considered responsive.
Failure to include any of these items may result in a nonresponsive determination.**

Signed Cover Sheet

Signed Addenda (if appropriate)

Section 1.5.4 is included: A mandatory Pre-Proposal Conference will be conducted at the Department of Public Health & Human Services (DPHHS) on April 23, 2008 at 2:30 p.m.

Point-by-Point response to all sections and subsections (per Section 1.6.1)

Complete answers to all requirements of Sections 3, 4, and 5

SCHEDULE OF EVENTS

<u>EVENT</u>	<u>DATE</u>
RFP Issue Date	APRIL 18, 2008
Pre-Proposal Walk Through Cafeteria Mandatory.....	APRIL 23, 2008
Deadline for Receipt of Written Questions.....	MAY 1, 2008
Deadline for Posting Written Responses to the State's Website.....	MAY 6, 2008
RFP Response Due Date.....	MAY 20, 2008
Intended Date for Contract Award	JUNE 15, 2008

SECTION 1: PROJECT OVERVIEW AND INSTRUCTIONS

1.0 PROJECT OVERVIEW

The STATE OF MONTANA, Department of Public Health & Human Services (hereinafter referred to as "the State") is seeking a contractor for a period of 1 year to provide Cafeteria Services in the Sanders Building, 111 N Sanders, Helena MT 59601. A more complete description of the supplies and/or services sought for this project is provided in Section 3, Scope of Project. Proposals submitted in response to this solicitation must comply with the instructions and procedures contained herein.

1.1 CONTRACT TERM

The contract term is for a period of 1 year beginning June 15, 2008 and ending June 14, 2009. Renewals of the contract, by mutual agreement of both parties, may be made at 1 year intervals. This contract, including any renewals, may not exceed a total of 5 years, at the option of the State.

1.2 SINGLE POINT OF CONTACT

From the date this Request for Proposal (RFP) is issued until an offeror is selected and the selection is announced by the procurement officer, **offerors are not allowed to communicate with any state staff or officials regarding this procurement, except at the direction of Gwen Ungerman**, the procurement officer in charge of the solicitation. Any unauthorized contact may disqualify the offeror from further consideration. Contact information for the single point of contact is as follows:

Procurement Officer: Gwen Ungerman
Address: 111 N Sanders
Helena MT 59601
Telephone Number: 406-444-0546
Fax Number: 406-444-7358
E-mail Address: gungerman@mt.gov

1.3 REQUIRED REVIEW

1.3.1 Review RFP. Offerors should carefully review the instructions, mandatory requirements, specifications, standard terms and conditions, and contract set out in this RFP and promptly notify the procurement officer identified above in writing or via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFP. This should include any terms or requirements within the RFP that either preclude the offeror from responding to the RFP or add unnecessary cost. This notification must be accompanied by an explanation and suggested modification and be received by the deadline for receipt of written or e-mailed inquiries set forth below. The State will make any final determination of changes to the RFP.

1.3.2 Form of Questions. Offerors with questions or requiring clarification or interpretation of any section within this RFP must address these questions in writing or via email to the procurement officer referenced above on or before MAY 1, 2008 2:00 p.m. local time. Each question must provide clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

1.3.3 State's Response. The State will provide an official written response by May 6, 5:00 p.m. local time to all questions received by MAY 1, 2008, 2:00 p.m. local time. The State's response will be by formal written addendum. Any other form of interpretation, correction, or change to this RFP will not be binding upon the State. Any formal written addendum will be posted on the State's website alongside the posting of the RFP at <http://gsd.mt.gov/osbs> by the close of business on the date listed. **Offerors must sign and return with their RFP response an Acknowledgment of Addendum for any addendum issued.**

1.4 PRE-PROPOSAL CONFERENCE

Pre-Proposal Conference will be conducted at the Department of Public Health & Human Services (DPHHS) 111 N Sanders Helena MT on April 23, 2008 at 2:30 p.m. Offerors are encouraged to use this opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the State of any ambiguities, inconsistencies, or errors discovered upon examination of this RFP. All responses to questions at the Pre-Proposal Conference will be oral and in no way binding on the State.

1.5 GENERAL REQUIREMENTS

1.5.1 Acceptance of Standard Terms and Conditions/Contract. *By submitting a response to this RFP, offeror agrees to acceptance of the standard terms and conditions and contract as set out in Appendices A and B of this RFP.* Much of the language included in the standard terms and conditions and contract reflects requirements of Montana law. Requests for additions or exceptions to the standard terms and conditions, contract terms, including any necessary licenses, or any added provisions must be submitted to the procurement officer referenced above by the date for receipt of written/e-mailed questions. Any request must be accompanied by an explanation of why the exception is being sought and what specific effect it will have on the offeror's ability to respond to the RFP or perform the contract. The State reserves the right to address nonmaterial requests for exceptions with the highest scoring offeror during contract negotiation. Any material exceptions requested and granted to the standard terms and conditions and contract language will be addressed in any formal written addendum issued for this RFP and will apply to all offerors submitting a response to this RFP. The State will make any final determination of changes to the standard terms and conditions and/or contract.

1.5.2 Resulting Contract. This RFP and any addenda, the offeror's RFP response, including any amendments, a best and final offer, and any clarification question responses shall be included in any resulting contract. The State's contract, attached as Appendix B, contains the contract terms and conditions which will form the basis of any contract between

the State and the highest scoring offeror. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by the State, will govern in the same order of precedence as listed in the contract.

1.5.3 Understanding of Specifications and Requirements. By submitting a response to this RFP, offeror agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

1.5.4 Mandatory Requirement: To be eligible for consideration, an offeror *must* meet the intent of all mandatory requirements as listed:
A mandatory Pre-Proposal Conference will be conducted at the Department of Public Health & Human Services (DPHHS) on April 23, 2008 at 2:30 p.m. Offerors are encouraged to use this opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the State of any ambiguities, inconsistencies, or errors discovered upon examination of this RFP. All responses to questions at the Pre-Proposal Conference will be oral and in no way binding on the State. Bids from Offerors who do not attend this Pre-Proposal Conference will not be accepted and will automatically be disqualified from further consideration. The State will determine whether an offeror's RFP response complies with the intent of the requirements. RFP responses that do not meet the full intent of all requirements listed in this RFP may be deemed non-responsive.

1.5.5 Prime Contractor/Subcontractors. The highest scoring offeror will be the prime contractor if a contract is awarded and shall be responsible, in total, for all work of any subcontractors. All subcontractors, if any, must be listed in the proposal. The State reserves the right to approve all subcontractors. The Contractor agrees not to enter into subcontracts for any work contemplated under this contract without prior written approval of the Department of Public Health & Human Services. The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. Further, nothing contained within this document or any contract documents created as a result of any contract awards derived from this RFP shall create any contractual relationships between any subcontractor and the State.

1.5.6 Offeror's Signature. The proposals must be signed in ink by an individual authorized to legally bind the business submitting the proposal. The offeror's signature on a proposal in response to this RFP guarantees that the offer has been established without collusion and without effort to preclude the State of Montana from obtaining the best possible supply or service. Proof of authority of the person signing the RFP response must be furnished upon request.

1.5.7 Offer in Effect for 120 Days. A proposal may not be modified, withdrawn, or canceled by the offeror for a 120-day period following the deadline for proposal submission as defined in the Schedule of Events, or receipt of best and final offer, if required, and offeror so agrees in submitting the proposal.

1.6 SUBMITTING A PROPOSAL

1.6.1 Organization of Proposal. Offerors must submit a signed copy of the RFP cover sheet and the form attached as Appendix C to respond to this RFP.

1.6.2 Failure to Comply with Instructions. Offerors failing to comply with these instructions may be subject to point deductions. The State may also choose to not evaluate, may deem nonresponsive, and/or may disqualify from further consideration any proposals that do not follow this RFP format, are difficult to understand, are difficult to read, or are missing any requested information.

1.6.3 Multiple Proposals. Offerors may, at their option, submit multiple proposals, in which case each proposal shall be evaluated as a separate document.

1.6.5 Copies Required and Deadline for Receipt of Proposals. Offerors must submit **one original proposal and 5 copies** to the Department of Public Health & Human Services (DPHHS). The State reserves the right to request an electronic copy of the RFP response. **PROPOSALS MUST BE SEALED AND LABELED ON THE OUTSIDE OF THE PACKAGE** to clearly indicate that they are in response to RFP# **0810030GU** ***Proposals must be received at the DPHHS PURCHASING OFFICE 111 N SANDERS, ROOM 8, HELENA MT 59601 prior to 2:00, local time, MAY 20, 2008. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.***

1.6.6 Late Proposals. ***Regardless of cause, late proposals will not be accepted and will automatically be disqualified from further consideration.*** It shall be the offeror's sole risk to assure delivery at the receptionist's desk at the designated office by the designated time. Late proposals will not be opened and may be returned to the offeror at the expense of the offeror or destroyed if requested.

1.7 COST OF PREPARING A PROPOSAL

1.7.1 State Not Responsible for Preparation Costs. The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the State are entirely the responsibility of the offeror. The State is not liable for any expense incurred by the offeror in the preparation and presentation of their proposal or any other costs incurred by the offeror prior to execution of a contract.

1.7.2 All Timely Submitted Materials Become State Property. All materials submitted in response to this RFP become the property of the State and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the State and offeror resulting from this RFP process.

SECTION 2: RFP STANDARD INFORMATION

2.0 AUTHORITY

This RFP is issued under the authority of section 18-4-304, MCA (Montana Code Annotated) and ARM 2.5.602 (Administrative Rules of Montana). The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. Only the evaluation criteria outlined in this RFP will be used.

2.1 OFFEROR COMPETITION

The State encourages free and open competition among offerors. Whenever possible, the State will design specifications, proposal requests, and conditions to accomplish this objective, consistent with the necessity to satisfy the State's need to procure technically sound, cost-effective services and supplies.

2.2 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION

2.2.1 Public Information. All information received in response to this RFP, including copyrighted material, is deemed public information and will be made available for public viewing and copying shortly after the time for receipt of proposals has passed with the following three exceptions: (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the State; and (3) other constitutional protections. See section 18-4-304, MCA. The State will make a copier available for interested parties to use at \$0.10 per page. The interested party is responsible for the cost of copies and to provide personnel to do the copying.

2.2.2 Procurement Officer Review of Proposals. Upon opening the proposals received in response to this RFP, the procurement officer in charge of the solicitation will review the proposals and separate out any information that meets the referenced exceptions in Section 2.2.1 above, providing the following conditions have been met:

- Confidential information is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.
- An affidavit from an offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, is attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret Confidentiality" form in requesting the trade secret claim. This affidavit form is available on the General Services Division's website at: <http://gsd.mt.gov/procurement/forms.asp> or by calling (406) 444-2575.

Information separated out under this process will be available for review only by the procurement officer, the evaluator/evaluation committee members, and limited other

designees. Offerors must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in the event of a “right to know” (open records) request from another party.

2.3 CLASSIFICATION AND EVALUATION OF PROPOSALS

2.3.1 Initial Classification of Proposals as Responsive or Nonresponsive. All proposals will initially be classified as either “responsive” or “nonresponsive,” in accordance with ARM 2.5.602. Proposals may be found nonresponsive at any time during the procurement process if any of the required information is not provided; the submitted price is found to be excessive or inadequate as measured by criteria stated in the RFP; or the proposal is not within the plans and specifications described and required in the RFP. If a proposal is found to be nonresponsive, it will not be considered further.

2.3.2 Determination of Responsibility. The procurement officer will determine whether an offeror has met the standards of responsibility in accordance with ARM 2.5.407. Such a determination may be made at any time during the procurement process if information surfaces that would result in a determination of nonresponsibility. If an offeror is found nonresponsive, the determination must be in writing, made a part of the procurement file, and mailed to the affected offeror.

2.3.3 Evaluation of Proposals. An evaluator/evaluation committee will evaluate the remaining proposals and recommend whether to award the contract to the highest scoring offeror or, if necessary, to seek discussion/negotiation or a best and final offer in order to determine the highest scoring offeror. All responsive proposals will be evaluated based on stated evaluation criteria. In scoring against stated criteria, the State may consider such factors as accepted industry standards and a comparative evaluation of all other qualified RFP responses in terms of differing price, quality, and contractual factors. These scores will be used to determine the most advantageous offering to the State. If an evaluation committee meets to deliberate and evaluate the proposals, the public may attend and observe the evaluation committee deliberations.

2.3.4 Completeness of Proposals. Selection and award will be based on the offeror's proposal and other items outlined in this RFP. Submitted responses may not include references to information located elsewhere, such as Internet websites or libraries, unless specifically requested. Information or materials presented by offerors outside the formal response or subsequent discussion/negotiation or best and final offer, if requested, will not be considered, will have no bearing on any award, and may result in the offeror being disqualified from further consideration.

2.3.5 Best and Final Offer. The Best and Final Offer is an option available to the State under the RFP process, which permits the State to request a best and final offer from one or more offerors if additional information is required to make a final decision. Offerors may be contacted asking that they submit their best and final offer, which must include any and all discussed and/or negotiated changes. The State reserves the right to request a best and final offer for this RFP, if any, based on price/cost alone.

2.3.6 Evaluator/Evaluation Committee Recommendation for Contract Award.

The evaluator/ evaluation committee will provide a written recommendation for contract award to the procurement officer that contains the scores, justification, and rationale for the decision. The procurement officer will review the recommendation to ensure its compliance with the RFP process and criteria before concurring in the evaluator's/evaluation committee's recommendation of the responsive and responsible offeror that achieves the highest score and is, therefore, the most advantageous to the State.

2.3.7 Request for Documents Notice. Upon concurrence with the evaluator's/ evaluation committee's recommendation, the procurement officer will issue a "Request for Documents Notice" to the highest scoring offeror to obtain the required documents/ information, such as insurance documents, contract performance security, an electronic copy of any requested material, i.e., RFP response, response to clarification questions, and/or best and final offer, and any other necessary documents. Receipt of the "Request for Documents Notice" does not constitute a contract and **no work may begin until a contract signed by all parties is in place.** The procurement officer will notify all other offerors of the State's selection.

2.3.8 Contract Execution. Upon receipt of all required materials requested in the "Request for Documents Notice," a formal contract utilizing the contract attached as Appendix B and incorporating the Standard Terms and Conditions attached as Appendix A, as well as the highest scoring offeror's response to the RFP, will be provided to the highest scoring offeror for signature. The highest scoring offeror will be expected to accept and agree to all material requirements contained in the contract and set out in Appendices A and B of this RFP. If the highest scoring offeror does not accept all material requirements, the State may move to the next highest scoring offeror, or cancel the RFP. Work under the contract may begin when the contract is fully executed, i.e., when the contract is signed by all parties.

2.4 STATE'S RIGHTS RESERVED

While the State has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the State of Montana to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- Cancel or terminate this RFP (section 18-4-307, MCA);
- Reject any or all proposals received in response to this RFP (ARM 2.5.602);
- Waive any undesirable, inconsequential, or inconsistent provisions of this RFP which would not have significant impact on any proposal (ARM 2.5.505);
- Not award if it is in the best interest of the State not to proceed with contract execution (ARM 2.5.602); or
- If awarded, terminate any contract if the State determines adequate state funds are not available (section 18-4-313, MCA).

SECTION 3: SCOPE OF PROJECT

3.0 INTRODUCTION

The STATE OF MONTANA, Department of Public Health & Human Services (DPHHS) is seeking qualified candidates to provide cafeteria services in the Sanders Building, 111 N Sanders, Helena MT 59601. The STATE OF MONTANA expects these operations to provide breakfast, lunch and break food services. The Department invites any innovative proposal that provides a variety of beverages, entrees and snack items to employees and others. The Cafeteria is considered an Employee Break Room. Employees do not have permission to access the food preparation area.

The Contractor will be expected to pay a \$500.00 cleaning deposit that will be reimbursed at the end of the contract term. Upon Mutual agreement, the deposit may be made within the first year of the contract in 12 monthly payments of \$41.67 per month. Payments will be made before the 15th of each month.

3.1 CONTRACTOR'S RESPONSIBILITY

- The cafeteria area is located in the basement of the DPHHS building.
- Approximately 206 employees work in the building. An unknown number of others may utilize the food service, but the Department has no information on their probable use of the cafeteria.
- Cafeteria hours are Monday through Friday 7:00 am to 3:30 pm., except for State Holidays. Deviations from these hours must be prior approved by the Department.
- Items available during the following timeframe:
 - 7:00 – 3:30 Coffee and Beverages (Hot and Cold)
 - 7:30 – 10:30 Breakfast (Hot and Cold)
 - 11:00 – 2:30 Lunch (Hot and Cold)
 - Hot and Cold drinks available all hours Cafeteria is open
- Contractor personnel are to be in attendance at the Cafeteria during service hours.
- Food may be prepared off site and delivered to the Cafeteria, only if the following two criteria are met:
 1. Approved by the Lewis and Clark Health Department
 2. Prepared in Commercial processing setting (example; Cafeteria, restaurant etc.)
- The Contractor will be required to retain the menu item pricing for the period of 90 days after the origination of contract.
- Contractor may increase prices AFTER the first 90 days, Only if the following two conditions are met PRIOR to increase;
 1. Item and price increases must be visually posted within the Cafeteria one (1) week prior to implementation.

2. Price must be comparable to the other Cafeteria Vendors on the Capital Complex.

- The Department will neither subsidize nor guarantee profitability of a foodservice venture, only the reservation of cafeteria location for the contract period.
- The Department expects the pricing to remain as low as possible in exchange for no-cost rent and utilities.
- Food and Beverage Vending machines: Contractor may not use any form of vending machines.
- To meet all applicable State and Local Health, safety, and fire codes: **The Contractor may not use a grill, deep fat fryer, open cooking method, or any mode of cooking that produces grease laden vapor in the Cafeteria.**
- Maintain a clean Cafeteria area, inclusive of equipment, kitchen/work area and the seating area.
- Maintain all equipment in good working order.
- Obtain prior approval from the Department for the use of any appliances not currently in use.
- Phone and monthly phone service bills.

3.2 COMPLIANCE WITH LABOR LAWS

- The Contractor assures the Department that the Contractor is an independent contractor providing services for the Department and that neither the Contractor nor any of the Contractor's employees are employees of the Department under this contract or any subsequent amendment.
- The Contractor, at all times during the term of this contract, must maintain coverage for the Contractor and the Contractor's employees through workers' compensation, occupational disease, and any similar or related statutorily required insurance program. The Contractor must provide the Department with proof of necessary insurance coverage.
- If the Contractor has received, for workers' compensation purposes, an independent contractor exemption as to the Contractor, the Contractor must provide the Department with a copy of the exemption.

- The Contractor is solely responsible for and must meet all labor, health, safety, and other legal requirements, including payment of all applicable taxes, premiums, deductions, withholdings, overtime and other amounts, which may be legally required with respect to the Contractor and any persons providing services on behalf of the Contractor under this contract.
- The provision of this contract regarding indemnification applies with respect to any and all claims, obligations, liabilities, costs, attorney fees, losses or suits accruing or resulting from the Contractor's failure to comply with this section, or from any finding by any legal authority that any person providing services on behalf of the Contractor under this contract is an employee of the Department.
- The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.
- The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

3.3 Term/Renewal/Cancellation

- The terms of the contract will be June 15, 2008 through June 14, 2009. Offeror and the Department agree that this contract may upon mutual agreement, and according to the terms of the existing contract be extended in 1 year intervals for a period not to exceed 4 additional years. In no case may this contract run longer than a total of 5 years.
- This contract may be canceled or terminated by either of the contractual parties without cause. The party seeking to terminate or cancel this contract must give written notice of its intention to do so to the other party at least 90 days prior to the effective day of cancellation or termination, unless immediate termination is necessary.
- If the Contractor fails to provide services required by this contract or such services within the time specified herein, or any extension thereof, the Department may, by written notice of default to the Contractor, cancel the whole or any part of this contract. Cancellation for cause is immediate.

- The Department may, upon finding that the Contractor is not in compliance with any law or regulation, or applicable licensure and certification requirement, cancel this contract upon written notice to the Contractor.
- Upon contract cancellation or non-renewal of this contract, the Contractor will allow the Department, its agents and representatives full access to their facilities and records for purpose of arranging the orderly transfer of the contract activities.
- The above remedies are in addition to any other remedies provided by law or the terms of this contract.
- The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the department.(MCA 18, 141) The Contractor agrees not to enter into subcontracts for any work contemplated under this contract without prior written approval of the Department of Public Health & Human Services.

3.4 DEPARTMENT RESPONSIBILITIES – If item(s) becomes broken, it is the Departments decision as to if the item will be replaced.

The Department's responsibilities are the following:

1. Adequate space for the contract
2. Break room tables
3. Break room chairs
4. Commercial Refrigerator
5. Frigidaire Freezer
6. Beverage Air Prep Table
7. Moffat Convection Oven
8. Food Warmer/Steam Table
9. Bonaire Cooler
10. Soup pot w/ lid
11. Pie Cooler
12. Small Oscillating Fan
13. Cabinets (2)
14. Shelves
15. Magazine rack – Wall Mount
16. White Board 2x3
17. Bulletin Board 3x4 cork
18. Plastic Trash Container –Gray 2 Large
19. Metal Trash Container – Gray 1 Medium
20. Building Rent and Electricity

3.5 CONTRACTOR PERFORMANCE ASSESSMENTS

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

3.6 PROPOSAL FORMAT AND CONTENT

Proposers must submit a narrative response addressing each of the following areas. Responses must be listed as noted and in the order presented or they will not be considered.

A mandatory walk through is scheduled April 23, 2008 at 2:30 p.m. in the cafeteria.

Offeror's are encouraged to use this opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the State of any ambiguities, inconsistencies, or errors discovered upon examination of this RFP. All responses to questions at the Pre-Proposal Conference will be oral and in no way binding on the State.

❖ Minimal Menu Requirements

In your narrative response, be specific as to the menu variety, freshness, quantity and portion sizing you would offer. Explain how you would assure food items are of high quality.

1. At a minimum, the following items must be made available:
 - a. Cold Sandwiches (3 varieties)
 - b. Salads (2 varieties)
 - c. Soup (1 variety)
 - d. Bakery items (Breakfast and Dessert)
 - e. Breads (Toast, Bagels, specialty)
 - f. Fruit/Veggies
 - g. Hot/Cold Cereal
 - h. Snacks
 - i. Hot and Cold Beverages (Coffee, Tea, Milk, Soda, Juice)
 - j. Yogurt
2. Bidder may suggest additional menu items; however, such items will be subject to approval by the Lewis and Clark County Health Department.
3. **The Contractor may not use a grill, deep fat fryer, open cooking method, or any mode of cooking that produces grease laden vapor in the Cafeteria.** Contractor must adhere to the Lewis and Clark County Health Department rules.

❖ Pricing

Provide a description of your proposed menu pricing. The Department expects the pricing to remain as low as possible in exchange for no-cost rent and utilities. Prices should be comparable to other Capitol Complex vendors. **Consideration will be given to** reduced pricing for ½ portions.

❖ **References**

Provide three (3) written references (should be from food service area); include name, address and daytime phone number. The Department may contact each of the listed references. (See section 4.1.1.)

❖ **Experience**

Provide a thorough summary of your experience in each of the following categories:

- a. Cook/Food Prep
- b. Experience with Vendors
- c. Business Owner – General
- d. Business Owner – Food Services (i.e. restaurant, sandwich shop etc.)

SECTION 4: OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS

4.0 STATE'S RIGHT TO INVESTIGATE AND REJECT

The State may make such investigations as deemed necessary to determine the ability of the offeror to provide the supplies and/or perform the services specified. The State reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the State that the offeror is properly qualified to carry out the obligations of the contract. *This includes the State's ability to reject the proposal based on negative references.*

4.1 OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS

In order for the State to determine the capabilities of an offeror to provide the supplies and/or perform the services specified in Section 3 above, the offeror must respond to the following requests for information regarding its ability to meet the State's requirements. **THE RESPONSE, “(OFFEROR'S NAME) UNDERSTANDS AND WILL COMPLY,” IS NOT APPROPRIATE FOR THIS SECTION.**

NOTE: Each item must be thoroughly addressed. Offerors taking exception to any requirements listed in this section may be found nonresponsive or be subject to point deductions.

4.1.1 References. Offeror shall provide a minimum of 3 written references. The references may include state government or universities, food vendors. At a minimum, the offeror shall provide the company/Individual's name, the location where the services were

provided, contact person(s), customer's telephone number, e-mail address, and a complete description of the service type, and dates the services were provided. These references may be contacted to verify offeror's ability to perform the contract. The State reserves the right to use any information or additional references deemed necessary to establish the ability of the offeror to perform the conditions of the contract. Negative references may be grounds for proposal disqualification.

SECTION 5: EVALUATION PROCESS

5.0 BASIS OF EVALUATION

The evaluator/evaluation committee will review and evaluate the offers according to the following criteria based on **a total number of 100 points**.

The **Minimal Menu Requirements, Pricing, References and Experience** portions of the offer will be evaluated based on the following Scoring Guide.

SCORING GUIDE

In awarding points to the evaluation criteria, the evaluator/evaluation committee will consider the following guidelines:

Superior Response (90-100%): A superior response is a highly comprehensive, excellent reply that meets all of the requirements of the RFP. In addition, the response may cover areas not originally addressed within the RFP and/or include additional information and recommendations that would prove both valuable and beneficial to the agency.

Good Response (75-89%): A good response meets all the requirements of the RFP and demonstrates in a clear and concise manner a thorough knowledge and understanding of the project, with no deficiencies noted.

Fair Response (60-74%): A fair response minimally meets most requirements set forth in the RFP. The offeror demonstrates some ability to comply with guidelines and requirements of the project, but knowledge of the subject matter is limited.

Failed Response (59% or less): A failed response does not meet the requirements set forth in the RFP. The offeror has not demonstrated sufficient knowledge of the subject matter.

5.1 EVALUATION CRITERIA

References	possible 10 points
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References will be contacted to verify offeror's ability to perform the contract. Points will be awarded accordingly.

Pricing	possible 25 points
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- A. Comparable to other Capitol Complex Vendors
- B. Reduced cost available for ½ portions

Menu	possible 25 points
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- A. Points will be awarded on narrative response regarding variety, freshness, quantity, portion sizing

Experience	possible 40 points
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- A. Cook/Food Prep (i.e. Catering, Church Organization, Restaurant)
- B. Business Owner – General
- C. Business Owner – Food Services (i.e. Restaurant, Sandwich shop, catering)
- D. Experience with Vendors

APPENDIX “A” IFB 0810030GU

Standard Terms and Conditions

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION

RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

AUTHORITY: The attached bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases, or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to ensure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/procurement/preferences.asp>.

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Section 18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning non-visual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

UNAVAILABILITY OF FUNDING: The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Section 18-4-313(4), MCA.)

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship, and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance, and/or use desired. Exceptions will be rejected.

**CONTRACT FROM THE MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**

CONTRACT NUMBER 0810030GU

SECTION 1: PARTIES

This contract is entered into between the Montana Department of Public Health and Human Services (hereinafter referred to as the "Department"), whose address and phone number are insert address and phone number and insert name of contractor (hereinafter referred to as the "Contractor"), whose federal ID number, mailing address, fax number, and phone number are insert ID number, mailing address, fax number and phone number.

THE PARTIES AGREE AS FOLLOWS:

SECTION 2: PURPOSE

Provide quality Cafeteria services in the Department of Public Health and Human Services (DPHHS) Building, 111 N Sanders, Helena MT 59601. The STATE OF MONTANA/DPHHS expects these operations to provide breakfast, lunch and break food, beverages services.

The Cafeteria is considered an Employee Break Room. Employees do not have permission to access the food preparation area.

- Items available during the following timeframe:
 - 7:00 – 3:30 Coffee and Beverages (Hot and Cold)
 - 7:30 – 10:30 Breakfast (Hot and Cold)
 - 11:00 – 2:30 Lunch (Hot and Cold)
 - Hot and Cold drinks available all hours Cafeteria is open

SECTION 3: TERM OF CONTRACT

The term of this contract for the purpose of delivery of services is from insert commencement date through insert end date unless terminated otherwise in accordance with the provisions of this contract. This contract may be extended up to Four (4), One 1 year **extensions** if both parties agree to the extension prior to the end of the current term of this contract.

SECTION 4: SERVICES TO BE PROVIDED

The Contractor agrees to provide the following Cafeteria Services. Cafeteria is located in the basement of the DPHHS building 111 N Sanders Helena MT 59601. The Contractor will be expected to pay a \$500.00 cleaning deposit that will be reimbursed at the end of the contract term. Upon Mutual agreement, the deposit may

be made within the first year of the contract in 12 monthly payments of \$41.67 per month. Payments will be made before the 15th of each month.

- Cafeteria hours are Monday through Friday 7:00 am to 3:30 pm., except for State Holidays. Deviations from these hours must be prior approved by the Department.
- Items available during the following timeframe:
 - 7:00 – 3:30 Coffee and Beverages (Hot and Cold)
 - 7:30 – 10:30 Breakfast (Hot and Cold)
 - 11:00 – 2:30 Lunch (Hot and Cold)
 - Hot and Cold drinks available all hours Cafeteria is open
- Menu (food/beverages) submitted in IFB #0810030GU and agreed upon by DPHHS and the Lewis and Clark Health Department
- Contractor personnel are to be in attendance at the Cafeteria during service hours.
- Food may be prepared off site and delivered to the Cafeteria, only if the following two criteria are met:
 - 3. Approved by the Lewis and Clark Health Department
 - 4. Prepared in Commercial processing setting (example; Cafeteria, restaurant etc.)
- The Contractor will be required to retain the menu item pricing for the period of 90 days after the origination of contract.
- Contractor may increase prices AFTER the first 90 days, Only if the following two conditions are met PRIOR to increase;
 - 1. Item and price must be visually posted within the Cafeteria, 1 Week prior to increase
 - 2. Price must be comparable to the other Cafeteria Vendors on the Capital Complex
- The Department will neither subsidize nor guarantee profitability of a foodservice venture, only the reservation of cafeteria location for the contract period.
- The Department expects the pricing to remain as low as possible in exchange for no-cost rent and utilities.
- Food and Beverage Vending machines: Contractor may not use any form of vending machines.
- To meet all applicable State and Local Health, safety, and fire codes:
The Contractor may not use a grill, deep fat fryer, open cooking method, or any mode of cooking that produces grease laden vapor in the Cafeteria.

- Maintain a clean Cafeteria area, inclusive of equipment, kitchen/work area and the seating area.
- Maintain all equipment in good working order.
- Obtain prior approval from the Department for the use of any appliances not currently in use.
- Phone and monthly phone service bills.

DEPARTMENT RESPONSIBILITIES/EQUIPMENT

The following items belong to STATE OF MONTANA/DPHHS and are the Department's responsibility:

1. Adequate space for the contract
2. Break room tables
3. Break room chairs
4. Commercial Refrigerator
5. Frigidaire Freezer
6. Beverage Air Prep Table
7. Moffat Convection Oven
8. Food Warmer/Steam Table
9. Bonaire Cooler
10. Soup pot w/ lid
11. Pie Cooler
12. Small Oscillating Fan
13. Cabinets (2)
14. Shelves
15. Magazine rack – Wall Mount
16. White Board 2x3
17. Bulletin Board 3x4 cork
18. Plastic Trash Container –Gray 2 Large
19. Metal Trash Container – Gray 1 Medium
20. Building Rent and Electricity

SECTION 5: ASSIGNMENT, TRANSFER AND SUBCONTRACTING

- A. The Contractor may not assign, transfer, delegate or subcontract, in whole or part, this contract or any right or duty arising under this contract unless the Department in writing approves the assignment, transfer, delegation or subcontract.
- B. An assignment, transfer, delegation or subcontract entered into by the Contractor must be in writing, must be subject to the terms and conditions of

this contract and must contain any further conditions as may be required by the Department.

- C. The Department's approval of any assignment, transfer, delegation or subcontract neither makes the Department a party to that agreement nor creates any right, claim or interest in favor of any party to that agreement against the Department.
- D. The Contractor must immediately notify the Department of any litigation concerning any assignment, transfer, delegation or subcontract.
- E. The Contractor must indemnify and hold the Department harmless, in accordance with the provisions of this contract, regarding indemnification, with respect to any suit or action by any party to an assignment, transfer, delegation or subcontract.

SECTION 6: HOLD HARMLESS/INDEMNIFICATION

- A. The Contractor must indemnify, defend, and hold harmless the State of Montana, its officials, agents, and employees from any breach of this contract by the Contractor, from any matters arising from the performance of this contract, or from the Contractor's failure to comply with any federal, state, and local laws, regulations and ordinances applicable to the services or work to be provided under this contract.
- B. This indemnification applies to all claims, obligations, liabilities, costs, attorney's fees, losses or suits resulting from any acts, errors, omissions or negligence, whether willful or not, of the Contractor, its employees, agents, subcontractors, or assignees and any other person, firm, or corporation performing work, services or providing materials under this contract.

SECTION 7: INSURANCE COVERAGE

A. GENERAL LIABILITY INSURANCE

- 1. The Contractor must maintain, at its cost, primary standard general liability insurance coverage. The general liability coverage must include claims arising out of contractual liability, the delivery of services, omissions in the delivery of services, injuries to persons, damages to property, the provision of goods or rights to intellectual property or any other liabilities which may arise in the provision of services under this contract. The insurance must cover claims as may be caused by any act, omission, or negligence of the Contractor and/or its officers, agents, employees, representatives, assigns or subcontractors.
- 2. The Contractor must provide general liability insurance coverage inclusive of bodily injury, personal injury and property damage. The general liability insurance coverage must be obtained with combined single limits of \$1,000,000

per occurrence and \$2,000,000 aggregate per year, from an insurer with a Best's Rating of no less than A- or through a qualified self-insurer plan, implemented in accordance with Montana law and subject to the approval of the Department.

3. The state, its officers, officials, agents, employees, and volunteers, are to be covered as additional insureds for liability arising out of activities performed by or on behalf of the Contractor, inclusive of the insured's general supervision of the Contractor, products and completed operations; and arising in relation to the premises owned, leased, occupied or used by the Contractor.

B. GENERAL REQUIREMENTS

1. The Contractor must provide to the Department a copy of the certificate of insurance showing compliance with the requisite coverage. All insurance required under this contract must remain in effect for the entire contract period. The Contractor must provide to the Department copies of any new certificate or of any revisions to the existing certificate issued during the term of this contract.
2. The Department may require the Contractor to provide copies of any insurance policies pertinent to these requirements, any endorsements to those policies, and any subsequent modifications of those policies.
3. The Contractor's insurance coverage is the primary insurance in respect to the state, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the state and its officers, officials, agents, employees, and volunteers is in excess of the Contractor's insurance and does not contribute with it.
4. Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department, the insurer must:
 - a. reduce or eliminate such deductibles or self-insured retentions in relation to the state, its officials, employees and volunteers; or
 - b. the Contractor must procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

SECTION 8: COMPLIANCE WITH LABOR LAWS

- A. The Contractor assures the Department that the Contractor is an independent contractor providing services for the Department and that neither the Contractor nor any of the Contractor's employees are employees of the Department under this contract or any subsequent amendment.

- B. The Contractor, at all times during the term of this contract, must maintain coverage for the Contractor and the Contractor's employees through workers' compensation, occupational disease, and any similar or related statutorily required insurance program. The Contractor must provide the Department with proof of necessary insurance coverage.
- C. If the Contractor has received, for workers' compensation purposes, an independent contractor exemption as to the Contractor, the Contractor must provide the Department with a copy of the exemption.
- D. The Contractor is solely responsible for and must meet all labor, health, safety, and other legal requirements, including payment of all applicable taxes, premiums, deductions, withholdings, overtime and other amounts, which may be legally required with respect to the Contractor and any persons providing services on behalf of the Contractor under this contract.
- E. The provision of this contract regarding indemnification applies with respect to any and all claims, obligations, liabilities, costs, attorney fees, losses or suits accruing or resulting from the Contractor's failure to comply with this section, or from any finding by any legal authority that any person providing services on behalf of the Contractor under this contract is an employee of the Department.

SECTION 9: COMPLIANCE WITH APPLICABLE LAWS, RULES AND POLICIES

The Contractor must comply with all applicable Lewis and Clark Health Department, Federal and State laws, executive orders, regulations and written policies, including those pertaining to licensing.

SECTION 10. CIVIL RIGHTS

A. Federal and State Authorities

The Contractor must comply with the applicable provisions of the Montana Human Rights Act (49-2-101, et seq., MCA), Governmental Code of Fair Practices (49-3-101, et seq. MCA) the federal Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), the federal Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794), and the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.).

B. Discrimination

The Contractor, as provided at 49-3-207, MCA and other relevant authorities, may not discriminate in any manner against any person on the basis of race,

color, religion, creed, political ideas, sex, age, marital status, physical or mental disability or national origin.

C. Employment

The Contractor, as provided at 49-3-207, MCA, must hire persons on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

The Contractor, in accordance with federal Executive Orders 11246 and 11375 and 41 CFR Part 60, must provide for equal employment opportunities in its employment practices.

SECTION 11. CONFIDENTIALITY AND HIPAA REQUIREMENTS

- A. The Contractor must, during and after the term of this Contract, protect confidential consumer and recipient information obtained and used in the performance of contractual duties and responsibilities under this Contract in accordance with applicable legal and policy authorities.
- B. All material and information containing consumer and recipient personal information provided to the Contractor by the Department or acquired by the Contractor on behalf of the Department, whether verbal, written, magnetic media, or in other forms, is to be regarded as confidential information and may only be used or disseminated by the Contractor, its subcontractors, or agents, for the purposes allowed for under this Contract and any governing legal and policy authorities.
- C. Failure of the Contractor to be in compliance with this provision, the Department's policies protecting confidential information, or federal and state legal authorities, inclusive of HIPAA, governing the protection of confidential information is cause for termination of this Contract by the Department.

SECTION 12. ACCESS TO PREMISES

The Contractor must provide the State of Montana and any other legally authorized governmental entity, or their authorized representatives, the right to enter at all reasonable times the Contractor's premises or other places where contractual performance occurs to inspect, monitor or otherwise evaluate contractual performance. The Contractor must provide reasonable facilities and assistance for the safety and convenience of the persons performing those duties. All inspection, monitoring and evaluation must be performed in such a manner as not to unduly interfere with contractual performance.

SECTION 13. CONTRACT TERMINATION

- A. The Department may immediately terminate the whole or any part of this contract for failure to perform the contract in accordance with the terms of the contract and other governing authorities.
- 1. If there is no exigency or risk of harm to persons from continued performance, the Department, in its discretion, may impose penalties and/or provide notice to the Contractor of the failure to perform and allow the Contractor 30 days during which to cure the failure.
- 2. Failure to perform includes, but is not limited to, failure to:
 - a. perform the services within the time limits specified in this contract;
 - b. perform any of the requirements of this contract;
 - c. perform its contractual duties or responsibilities in accordance with the terms of the contract or any other authority, including statute, rules, or policy that govern the standards for performance; or
 - d. comply with any law, regulation or licensure and certification requirement.
- B. The Department may terminate the whole or any part of this contract when federal or state funding for this contract becomes unavailable for any reason. The Department must give notice to the Contractor at least thirty (30) days prior to the effective date of termination.
- C. Either party may terminate this contract without cause. The party terminating this contract must give notice of termination to the other party at least ninety (90) days prior to the effective date of termination.

SECTION 14. LIAISON AND SERVICE OF NOTICES

- A. Insert name along with telephone number/fax number, and e-mail address is the liaison for the Department. Insert name along with telephone number/fax number, and e-mail address is the liaison for the Contractor. These persons serve as the primary contacts between the parties regarding the performance of this contract.
- B. Written notices, reports and other information required to be exchanged between the parties must be directed to the liaison at the parties' addresses set out in this contract.

SECTION 15. CHOICE OF LAW, REMEDIES AND VENUE

- A. This contract is governed by the laws of the State of Montana.
- B. Any remedies provided by this contract are not exclusive and are in addition to any other remedies provided by law.
- C. In the event of litigation concerning this contract, venue must be in the First Judicial District in and for the County of Lewis and Clark, State of Montana.
- D. In the event of a contractual dispute, the Contractor agrees to continue performance under this contract unless the Department explicitly waives performance in writing.

SECTION 16. SCOPE, AMENDMENT AND INTERPRETATION OF CONTRACT

- A. This contract consists of numbered pages and attachments insert attachment designation through insert attachment designation. This is the entire contract between the parties.
- B. No statements, promises, or inducements made by either party or their agents are valid or binding if not contained herein.
- C. The headings to the sections of this contract are for convenience of reference and do not modify, the terms and language of the provisions to which they are headings.
- D. No contractual provisions from a prior contract of the parties are valid or binding in this contractual agreement.
- E. This contract, except as may be otherwise provided by the terms of this contract, may not be enlarged, modified or altered except by written amendment signed by the parties to this contract.
- F. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract along with any attachments prepared by the Department, inclusive of request for proposal, if any, govern over the Contractor's proposal if any.

The parties through their authorized agents have executed this contract on the dates set out below.

MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

By: _____ Date _____
Department of Public Health & Human Services

Address

Phone Number

INSERT NAME OF CONTRACTOR

By: _____ DATE _____

_____ as _____
Typed/Printed Name Title

Address

Phone Number

Federal I.D. Number